IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.O.C.P.No.375 of 2006
Date of Decision : 11.09.2007

Davinder Singh .....Petitioner

versus

Ms.Tajinder Kaur and others .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.R.C.Chatrath, Advocate for the petitioner.
Mr.G.S.Cheema, Sr.DAG, Punjab for respondent Nos.1 to 3.
Mr.Ashok Singla and Mr.Balbir Singh, Advocates for respondent No.4.

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JUDGMENT

HEMANT GUPTA, J.

The writ petition filed by the petitioner was allowed by the Division Bench of this Court on 19.11.1998 in the same terms as in C.W.P.No.1169 of 1996, "Hari Singh and others versus State of Punjab and others", decided on 19.2.1997. The operative part of the said judgment reads as under:-

> "Accordingly, we have no hesitation in holding that the stipulation contained in notification dated 23.12.1992 confining the revised scale to take effect from 23.12.1992 is unsustainable in law. Accordingly, we hold that petitioners too are entitled to revision of pay scales as per notification dated 23.12.1992, but the same shall be given effect to from 1.1.1986. Since the petitioners have been deprived of their valuable right and that too without any justification, they are held entitled to interest at the rate of 18% per annum on the amount which has fallen due till today. The respondent

> authorities are accordingly directed to quantify the amount payable to the petitioners alongwith interest and pay the same to the petitioners within a period of two months from the receipt of order of this Court. No costs."

It has been pointed out in the affidavit dated 18.7.2006, filed by the Director of Public Instructions, Punjab that the pay of the petitioner, who is an employee of a privately managed aided school, has been fixed in the revised pay scale of Rs.1500-2640 w.e.f. 1.1.1986 at Rs.1680/-. It has been pointed out that the previous scale of the petitioner was Rs.800/-.

In the rejoinder, the petitioner has alleged that the unrevised pay scale of the Art and Craft Teacher was Rs.570-1080/-. The revised pay scale is Rs.1500-2640. The Senior Scale after 8 years of service is Rs.1640-2950 and the Selection Scale after 18 years of service is Rs.1800-3200. It is thus alleged that the petitioner having been appointed as Art and Craft Teacher against a regular post on 1.12.1967, is entitled to senior scale and selection grade after 8 and 18 years of service, which has not been granted to the petitioner. In additional affidavit dated 31.8.2007, it is pointed out that the pay of the petitioner at Rs.1680/- has been fixed in the pay scale of Rs.1500-2640 after giving the benefit of 8 years of service. The benefit of 18 years of service has been given on 10.4.1990 by fixing his pay at Rs.1840/- and that the petitioner is not entitled to the pay scale of Rs.1800-3200 w.e.f. 1.1.1986 because the service of the petitioner was of less than 18 years on 1.1.1986.

After hearing learned counsel for the parties, it transpires that the dispute between the parties is regarding grant of selection grade of

Rs.1800-3200/-. As per the petitioner, he is entitled to such scale w.e.f. 1.1.1986, whereas his pay has been fixed in such scale w.e.f. 10.4.1990. The question, whether the petitioner is entitled to the selection grade of Rs.1800-3200 after his deemed date of appointment i.e. 1.12.1967 or not is a question which cannot be examined in the contempt proceedings. As per the respondents, the pay scale has been revised and the arrears have been paid. Non grant of the pay scale from a particular date cannot be said to be an act of willful disobedience to the orders passed by the Court, which may disclose a civil contempt.

Consequently, I do not find any merit in the present contempt petition. The same is dismissed. Rule is discharged.

11-09-2007 **(HEMANT GUPTA)**
*mohinder/mamta **JUDGE**